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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/546,828	08/25/2005	Takashi Koike	046124-5406	3328
23973 7590 12/22/2006 DRINKER BIDDLE & REATH ATTN: INTELLECTUAL PROPERTY GROUP ONE LOGAN SQUARE 18TH AND CHERRY STREETS PHILADELPHIA, PA 19103-6996			EXAMINER ALLI, IYABO	
			ART UNIT	PAPER NUMBER
			2112	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		12/22/2006	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/546,828	Applicant(s) KOIKE, TAKASHI	
	Examiner IYABO S. ALLI	Art Unit 2112	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 August 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>8/25/2005</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims **1-10** are rejected under 35 U.S.C. 102(e) as being anticipated by **Yamauchi** (US 6,819,422).

Yamauchi discloses a measuring method for immunochromatographic test strip comprising:

In regards to claim 1, a measuring device for immunochromatographic test strip **10**, arranged to irradiate measurement light onto an immunochromatographic test strip **10** and to measure light from the immunochromatographic test strip **10**, the measuring device comprising a photodiode **36** for receiving the light from the immunochromatographic test strip **10** (Column 15, lines 1-4); and

a light shielding member **150** provided between the immunochromatographic test strip **10** and the photodiode **36**, and having a plurality of light paths **32** for guiding part of the light from the immunochromatographic test strip **10** to the photodiode **36**, wherein

Art Unit: 2112

the plurality of light paths **32** are juxtaposed along a direction in which a colored portion of line shape formed on the immunochromatographic test strip **10** extends (Column 38, lines 1-5 and Fig. 1).

In regards to claim 2, a width of the light paths is not more than a width of the colored portion of line shape **18** (Column 32, lines 8-10).

In regards to claim 3, the light paths **32** are hole portions **35** formed in the light shielding member **150** (Column 23, lines 1-4 and Fig. 1).

In regards to claim 4, an inside diameter of the hole portions **35** is not more than a width of the colored portion of line shape **18** (Column 32, lines 3-4 and Fig. 5).

In regards to claim 5, the number of said photodiode **36** is set to be not less than 1 and not more than the number of said light paths **32** (Fig. 1).

In regards to claim 6, the light from the immunochromatographic test strip **10** is reflected light of the measurement light irradiated onto the immunochromatographic test strip **10** (Column 44, lines 5-8 and Figs. 9 & 10).

In regards to claim 7, the light from the immunochromatographic test strip **10** is transmitted light of the measurement light irradiated onto the immunochromatographic test strip **10** (Column 50, lines 1-4).

In regards to claim 8, the immunochromatographic test strip **10** is moved relative to a detection optical system **30** including the photodiode **36** and the light paths,

in parallel with a moving direction of an antigen or antibody on the immunochromatographic test strip **10** (Column 7, lines 2-5).

In regards to claim 9, a plurality of detection optical systems **30** each including the photodiode **36** and the light paths are juxtaposed (Columns 13 & 8, lines 1-4 and Fig. 3).

And in regards to claim 10, A measuring device for immunochromatographic test strip **10** comprising a table **24** on which an immunochromatographic test strip **10** is to be mounted; a light emitting diode **21** for emitting light toward the table **24**; a photodiode **36** for receiving light coming from the table **24** (Column 20, lines 2-6); and

a light shielding member **150** disposed between the table and the photodiode, wherein the light emitting diode and the photodiode **136** move relative to the table **24** in a predetermined direction, and wherein a plurality of light paths penetrating the light shielding member from the table **24** side to the photodiode **136** side are formed in juxtaposition in a direction intersecting with the predetermined direction, in the light shielding member **150** (Column 38, lines 1-5 and Figs. 3 & 4).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to IYABO S. ALLI whose telephone number is 571-270-1331. The examiner can normally be reached on M-Th 7:30am- 5:00pm; 1st F-OFF & 2nd F- 7:30-4pm.

Art Unit: 2112

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrell McKinnon can be reached on 571-272-4797. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



TERRELL L. MCKINNON
SUPERVISORY PATENT EXAMINER

IYABO S. ALLI
Examiner
Art Unit 2112
December 19, 2006

